

# **JANUARY 27, 2005**

## **BOARD MEETING MINUTES**

- Item 1- Call to order / roll call to determine the presence of a quorum. After determining the presence of a quorum, the meeting was called to order at 8:43am. Members in attendance: Laura LaPorta Krum, PT, Phd, Chairman; Jack Close, MA, PT, FAPTA; Pamela Hogan, PT, OCS, FSOM; Chad Bible, MSPT, GCS; Conee Spano, M.Ed., Secretary/Treasurer and Public Member. Non-members in attendance: Lawrence P. Mooney, Chief Inspector; Christine Guerri, Deputy Attorney General; Dena James, Deputy Attorney General; Allison Tresca, Executive Secretary. For all others in attendance, please see the sign-in sheet in the minutes in file.
- Item 2- Review and approval of minutes for Board meeting of November 18, 2004. This item tabled until next meeting.
- Item 3- Review and approval of executive session minutes for Board meeting of November 18, 2004. This item tabled until next meeting.
- Item 4- Review and approval of Treasurer's Report for period ending November 2004. This item tabled until next meeting.
- Item 5- Review and approval of Profit and Loss Report for period ending November 2004. This item tabled until next meeting.
- Item 6- Review and approval of Treasurer's Report for period ending December 2004. This item tabled until next meeting.
- Item 7- Review and approval of Profit and Loss Report for period ending December 2004. This item tabled until next meeting.
- Item 8- Review and approval of Balance Sheet as of December 1, 2004. This item tabled until next meeting.
- Item 9- Review and approval of Balance Sheet as of January 1, 2005. This item tabled until next meeting.
- Item 10- Review and approval of fiscal year Budget Report. This item tabled until next meeting.
- Item 11- Review and approval of Secretary's Report. This item tabled until next meeting.
- Item 12- Applicant Cheryl Knizner requests to take the National Examination a fifth time in accordance with NRS 640.100(4). On motion by Board member Bible, seconded by Board member Hogan and approved with a unanimous vote, the Board went into closed session. After returning to open session, on motion by Board member LaPorta Krum, seconded by Board member Hogan and

approved with a unanimous vote, the applicant is granted permission to sit for the examination after April 1, 2005 after Board members Close and LaPorta Krum approve her detailed study plan and report on progress made regarding testing skills.

The study plan is to include who the applicant is studying with, and when, and the topics of study. It is suggested to the applicant that she schedule some study sessions equal to the time it takes to sit for the actual computer based examination.

- Item 13- Applicant John Sulgrove requests to be licensed. On motion by Board member Bible, seconded by Board member Spano and approved with a unanimous vote, the Board went into closed session. After returning to open session, on motion by Board member Hogan seconded by Board member Close and approved with a unanimous vote, the applicant is to be licensed upon passing the National Physical Therapy Examination.
- Item 14- Applicant Tammy Garcia requests to be licensed. On motion by Board member Spano, seconded by Board member Hogan and approved with a unanimous vote, the Board went into closed session. After returning to open session, on motion by Board member LaPorta Krum, seconded by Board member Hogan and approved with Board member Close abstaining, the applicant is granted licensure as a Physical Therapist's Assistant.
- Item 15- Review and approval of advisory opinion of Nevada Revised Statute 640.160(2)(i) pertaining to payment of an unearned fee, as requested by the Nevada Physical Therapy Association. Board member LaPorta Krum noted that she, as Chairman, reviewed the advisory opinion after Deputy Attorney General Dena James wrote it. On motion by Board member Close, seconded by Board member Hogan and approved with a unanimous vote, the Board approved the advisory opinion as written.
- Item 16- Presentation from the Nevada Physical Therapy Association on Bill Draft 720 which deals with proposed changes to NRS 640.160(2) and their request for the Board's opinion of the bill. Boyd Etter and Jane Keehan appeared telephonically. Deputy Attorney General Dena James advised the NPTA that their letter was not precisely clear as to what they were specifically requesting, so the item was listed as discussion only. She further commented that the Board can place this on another agenda under a very explicit action item. Jane Keehan noted that the NPTA wants to let the Board know what they are doing with their bill draft and they want to get feedback from the Board, on the record, and if the Board can give them a commitment of this language. She continued, stating that the language has many months to go before it is finalized. She also noted that the model language of the APTA is the basis for what they have written. Boyd Etter noted that this is basically an autonomous practice bill. The NPTA wants the Board to be fully aware and wants their support and to ask if there may be potential ramifications on the physical therapists. He noted that he wants this to be a positive change. He noted that changes to the bill had already been made and more will be made. He noted that thus far, sentences 2 and 4 are the only to remain. He noted

that the NPTA wants the language clear and concise. Board member LaPorta Krum referred to the second sentence of 640.160(i) and asked Mr. Etter if the difference of 640.160(i) and their bill draft is the addition of the refunding of fees received for services. Mr. Etter noted that this change will make the law more comprehensive than what is currently in place, stating that this mirrors what is in the law currently, but more clear. He further stated he wants this to be a law so discipline can be imposed. Ms. Keehan noted that this new language would give the licensees a clear picture of what the law is as there is confusion regarding physician owned clinics. Mr. Etter stated that the unearned fee portion of the law needs to be clarified. Board member LaPorta Krum commented that it sounds like any practice that currently employs PT's can continue on forever. Mr. Etter said it is designed to sound that way, but it is not really that way. He stated that he doesn't want to appear mischievous, but if a physical therapist resigns from a practice, it is over, the practice cannot hire another physical therapist. He stated that the positions are eliminated upon the resignation of the physical therapist. Board member Bible asked who the NPTA saw as opposition to this law. Mr. Etter stated that orthopedic surgeons would be their strongest opposition. He also stated that this change is an uphill battle with about a 5% chance to pass. Board member Hogan asked if Mr. Etter's or Ms. Keehan's employers have indicated to them that they are disgruntled employees. Mr. Etter said no, he is more concerned with them saying if it so bad, why do you stay here? Ms. Keehan wanted it noted for the record that the movement towards this change is driven by the NPTA and is nationally motivated, not just she and Mr. Etter's personal agenda. Mr. Etter stated that he wants the support of Board and wants the Board to vote as a body that they are in support or not in support of this. Board member Bible stated that he would like to know if there are other Boards who endorse the activities of their professional associations. Mr. Etter said he would look into it.

- Item 17- Request for advisory opinion from licensee Daniel Staffa regarding licensing requirements for physical therapists and physical therapist's assistants treating at facilities on federal land in federal facilities without Nevada licenses. This item tabled until next meeting.
- Item 18- Review and approval of procedure for National Physical Therapy Examination applicants to request special accommodations. Board member Spano noted that there have been several applicants, having failed the National Examination two times or more, requesting the pencil and paper version and/or extended time. She continued, noting that the Board needs disability documentation to support the request for special accommodations. Board member Close noted that text-anxiety may be considered a disability. Board member Spano noted that to get disability assistance from the college, a person would be required to submit a letter from his physician. She continued, noting that there is help for students with test taking issues, but a report from that office alone would not permit for benefits. On motion by Board member Bible, seconded by Board member Close and approved with a unanimous vote, the form for applicants to request special accommodations is approved.

Item 19- Comparison of Nevada Revised Statute 640.100(4), which provides that an applicant must appear before the Board before he may take the National Physical Therapy Examination after failing it two or more times, with comparable statutes of other jurisdictions. Board member Close noted that there are time limits set forth by the FSBPT. Board member LaPorta Krum asked Deputy Attorney General Guerri if the Board can create a policy within the Board to address this issue. Deputy Attorney General Guerri noted that the law says that applicants who have failed two or more times must appear before the Board. She further commented that any such guidelines would be required to be placed in the regulations, but doing so would take away the Board's flexibility. Board member Close noted that not all applicants appearing before the Board are there for the same reason and setting specific guidelines for re-taking the examination would not apply to all applicants. Board member LaPorta Krum commented that there comes a point when she wonders how many times a person can take the examination and have the Board still feel comfortable that their knowledge has not decayed. She also noted that statistics show that the longer you wait from graduation to take the examination, the harder it is to pass. Board member Spano noted that she does not like to see the applicants repeatedly. She also noted that she does not feel comfortable telling an applicant what education to obtain. She continued, saying that she is concerned of the quality of care the public receives by a person who made numerous attempts at the examination and then barely passes. Board member Bible asked if we can limit the attempts to six. It was discussed that any such limits would be placed into the regulations. Board member Hogan noted that she would lean towards a regulation change to address this. Board member LaPorta Krum noted that she would like to see a historical perspective of the applicant's who have appeared before the Board to request permission to sit for the examination a third, or more, times.

Item 20- Complaint Hearings or Review and Approval of Consent Decrees.

Case #2003-64 / Donald Nobis. Board member Spano presided over the hearing as Chairman LaPorta Krum was the Investigative Board Member. Board member LaPorta Krum was not involved in any portion of this matter. This case taken by an official Court Reporter, please see transcripts in minutes file.

Case #2004-39 / Timothy Hipkins. It is noted for the record that at 2:00pm on January 27, 2005, the licensee had not appeared in accordance with the notice of hearing he received and signed for via Certified Mail.

Case #2004-50 / David Hawkins. Consent Decree. On motion by Board member Hogan, seconded by Board member Close and approved with a unanimous vote, the consent decree is approved.

Item 21- Report from the Investigative Board Members.  
(A) Jurisdictional determination of the following cases. (Action).

Case #2004-45. On motion by Board member Hogan, seconded by Board member Bible and approved with a unanimous vote, the case is dismissed.

(B) Report from the Deputy Attorney General (Discussion only).

- Item 22- Activities of the Board office. This item tabled until next meeting.
- a) Update of activities of the Board office.
  - b) Review and discussion of Financial Audit for fiscal year 2003-04.
  - c) Review and approval of hourly rate increase for the Board Clerk.
  - d) Discussion concerning annual Board evaluation of the Executive Secretary.
- Item 23- Update from Chief Inspector Mooney regarding status of annual inspections. Annual inspections are underway. There have been approximately 100 visits with approximately 25 complaints.
- Item 24- Update from Pamela Hogan of the Continuing Education Advisory Committee regarding the request from the American Physical Therapy Association to be a recognized provider. This item tabled until next meeting.
- Item 25- Items for future agendas.
- Item 26- Confirm schedule of future Board meetings and their locations. The next meeting of the Board will be held in March 8, 2005 in Reno. The May meeting will be held in Las Vegas on May 12, 2005.
- Item 27- Review of files/ratification for licensure.

FILES FOR REVIEW/RATIFICATION:

Physical Therapists

Co, Caroline	1858	Schutz, Amy	1865
Hussey, Glenn	1859	Schultz, Krista	1866
DeLuna, Vincent	1860	Woodhouse, Steven	1867
Overholser, Jason	1861	Wong, Daniel	1868
Viado, Lady	1862	Aakhus, Daniel	1869
Wessells, David	1863	Artuz, Millicent	1870
Alwardt, Tina	1864		

Physical Therapist's Assistants

Martel, Melinda	A-0387	Stadter, Leanne	A-0388
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- Item 28- Adjournment of the Board meeting.